

06-1628ghmBentonDWOP\$.wpd

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FREDDIE L. BENTON,	§	
	§	
Petitioner,	§	
	§	
v.	§	CIVIL ACTION NO. H-06-1628
	§	
NATHANIEL QUARTERMAN,	§	
	§	
Respondent.	§	

ORDER OF DISMISSAL

Petitioner Freddie L. Benton, a state inmate incarcerated in the Texas Department of Criminal Justice – Correctional Institutions Division, filed this *pro se* habeas petition under 28 U.S.C. 2254 challenging his state court conviction. On May 25, 2006, the Court denied petitioner’s application to proceed *in forma pauperis* and ordered him to pay the \$5.00 filing fee in full on before June 25, 2006. (Docket Entry No. 8.) Petitioner was warned that his failure to timely pay the filing fee may result in the dismissal of this case without further notice. To-date, petitioner has neither paid the filing fee nor requested additional time to comply.

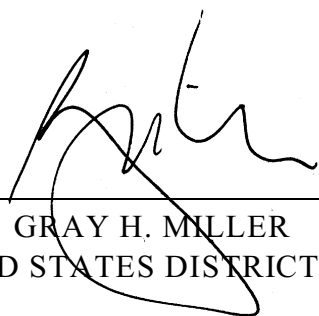
Petitioner’s failure to pursue this action forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998). Upon a proper

showing, relief from this order may be granted in accordance with Rule 60(b) of the Federal Rules of Civil Procedure.

Accordingly, it is **ORDERED** that this action be **DISMISSED** without prejudice for want of prosecution. Any pending motions are **DENIED** as moot.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on July 13, 2006.



GRAY H. MILLER
UNITED STATES DISTRICT JUDGE